

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DESERT LAND LOAN ACQUISITION,
LLC, et al.,

Case No. 2:20-CV-844 JCM

Plaintiff(s),

ORDER

v.

BRIAN SHAPIRO, et al.,

Defendant(s).

Presently before the court is appellants Desert Land Loan Acquisition, LLC; Howard Bulloch; Cristi Bulloch, Solely in her Capacity as Trustee of The Cristi Bulloch Separate Property Trust Dated 03/28/2003; The Bulloch Heritage Trust; The Howard and Cristi Bulloch Family Trust Dated 9/14/1995; The Howard Bulloch Separate Property Trust Dated 03/28/2003's motion for voluntary dismissal of appeal pursuant to Fed. R. Bankr. P. 8023, without prejudice, with each side to bear its own attorneys' fees and costs. (ECF No. 26). Appellees have not responded, and the deadline has passed.

Under Federal Rule of Bankruptcy Procedure 8023, "an appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP." Here, the appellants seek to voluntarily dismiss the instant appeal, with each side to bear its own attorneys' fees and costs.

Pursuant to Local Rule 7-2, an opposing party must file points and authorities in response to a motion and failure to file a timely response constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *See* LR IB 7-2(d); *United States v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy

1 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.”
2 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421,
3 1423 (9th Cir. 1986)).

4 In light of appellee’s lack of response and weighing the factors identified in *Ghazali*, the
5 court finds dismissal of this matter appropriate. The records reflect proper notice of the motion,
6 and respondent’s actions demonstrate an awareness of this matter. Ample time has passed since
7 the response’s deadline of July 8, 2020.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that appellants Desert Land
10 Loan Acquisition, LLC; Howard Bulloch; Cristi Bulloch, Solely in her Capacity as Trustee of
11 The Cristi Bulloch Separate Property Trust Dated 03/28/2003; The Bulloch Heritage Trust; The
12 Howard and Cristi Bulloch Family Trust Dated 9/14/1995; The Howard Bulloch Separate
13 Property Trust Dated 03/28/2003’s motion for voluntary dismissal of appeal (ECF No. 26) be,
14 and the same hereby is, GRANTED.

15 The matter of *Desert Land Loan Acquisition, LLC et al v. Shapiro et al*, case number
16 2:20-cv-00844-JCM, be, and the same hereby is, DISMISSED.

17 The clerk is instructed to enter judgment and close the case accordingly.

18 DATED July 27, 2020.

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UNITED STATES DISTRICT JUDGE